

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

SHERMAN DIVISION

MED-PHARM LLC,  
Plaintiff,

v.

PHARMACIST MUTUAL INSURANCE  
COMPANY and ALLEN B. SIMONS,  
Defendants.

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Civil Action No. \_\_\_\_\_

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Defendants Pharmacists Mutual Insurance Company, incorrectly sued as Pharmacist Mutual Insurance Company, and Allen B. Simons (“Defendants”), two non-Texas citizens sued in Texas state court for damages exceeding \$200,000, and file this Notice of Removal pursuant to 28 U.S.C. § 1446(a) to remove this case from the 366th Judicial District Court of Collin County, Texas, to the United States District Court for the Eastern District of Texas, Sherman Division, on the basis of diversity jurisdiction. Defendants deny the allegations in Plaintiff’s Petition, and any amendments thereto, along with the claimed damages, and file this Notice of Removal without waiving any defenses, exceptions, or obligations that may exist in Defendants’ favor in state or federal court.

**I.  
REMOVAL IS PROPER**

1. On August 31, 2017, Plaintiff filed its Original Petition in this matter in the 366th Judicial District Court of Collin County, Texas, and it was provided Cause No. 366-04226-2017.

2. The citation and Petition were served on Defendant Pharmacists Mutual Insurance Company on October 17, 2017. The citation and Petition were allegedly served on Defendant Allen B. Simons on October 17, 2017.

3. Copies of all pleadings, process, orders and other filings in the state court suit are provided in the Appendix to this Notice of Removal pursuant to 28 U.S.C. § 1446(a).

4. This Notice of Removal is filed within 30 days of receipt of the Petition and is timely filed under 28 U.S.C. § 1446(b).

5. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in the district.

6. All Defendants consent to the removal of this case to federal court. 28 U.S.C. § 1446(b)(2)(A).

7. Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

## **II. BASIS FOR REMOVAL**

8. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that every Defendant is now and was at the time the action was commenced diverse in citizenship from Plaintiff. No Defendant is or was at the time the suit was commenced a citizen of the State of Texas.

9. Plaintiff MED-PHARM LLC is a limited liability company organized and existing under the laws of the State of Texas. *See* APPX00007. Plaintiff is now and was at the time this action was commenced a citizen of the State of Texas and of no other state.

10. Defendant Pharmacists Mutual Insurance Company is a corporation organized and existing under the laws of the State of Iowa with its principle place of business now and at the time

this action was commenced in the State of Iowa. Defendant Pharmacists Mutual Insurance Company is now and was at the time this action was commenced a citizen of the State of Iowa and of no other state.

11. Defendant Allen B. Simons is an individual domiciled in the State of Pennsylvania and was domiciled there at the time this action was commenced. Defendant Allen B. Simons is now and was at the time this action was commenced a citizen of the State of Pennsylvania and of no other state.

12. Plaintiff's Original Petition recites that Plaintiff sues for "monetary relief over \$200,000.00 but not in excess of \$1,000,000.00." *See* APPX00008. Accordingly, the amount in controversy in this action exceeds the sum of \$75,000.00, exclusive of interest and costs.

13. Removal of this action is proper as it is a civil action brought in a state court and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1332 because there is complete diversity between Plaintiff and Defendants and the amount in controversy exceeds \$75,000.00, excluding interest and costs. 28 U.S.C. § 1441.

### **III. LOCAL RULE CV-81 INFORMATION**

14. Copies of all documents required pursuant to Local Rule CV-81(c) are included in the Appendix to this Notice of Removal. The information required pursuant to Local Rule CV-81(c) is as follows:

a. Parties and Counsel:

**Plaintiff**  
MED-PHARM LLC  
Timothy M. Hock  
Texas State Bar No. 09744950  
HOCH LAW FIRM, P.C.  
5616 Malvey Avenue  
Fort Worth, Texas 76107

Telephone: (817) 731-9703  
Facsimile: (817) 731-9706  
[tim@hochlawfirm.com](mailto:tim@hochlawfirm.com)

**Defendant**

Pharmacists Mutual Insurance Company  
Amos D. Pettis  
Texas State Bar No. 24027730  
THE WILLIS LAW GROUP, PLLC  
10440 N. Central Expressway, Suite 520  
Dallas, Texas 75231  
Telephone: (214) 736-9433  
Facsimile: (214) 736-9994  
[service@thewillislawgroup.com](mailto:service@thewillislawgroup.com)

**Defendant**

Allen B. Simons  
Amos D. Pettis  
Texas State Bar No. 24027730  
THE WILLIS LAW GROUP, PLLC  
10440 N. Central Expressway, Suite 520  
Dallas, Texas 75231  
Telephone: (214) 736-9433  
Facsimile: (214) 736-9994  
[service@thewillislawgroup.com](mailto:service@thewillislawgroup.com)

- b. Status of Case: Pending.
15. At the time of removal, no request for a jury trial has been filed by any party.
16. The name and address of the court from which the case is being removed is:

366th Judicial District Court of Collin County, Texas  
Honorable Judge Ray Wheless  
Russel A. Steindam Courts Building  
2100 Bloomdale Road, Suite 30146  
McKinney, Texas 75701  
Court Coordinator: (972) 548-4570  
District Clerk: (972) 548-4320

**IV.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendants Pharmacists Mutual Insurance Company and Allen B. Simons join together and, pursuant to these statutes and in conformance

with the requirements of 28 U.S.C. § 1446, remove this action from the 366th Judicial District Court of Collin County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division.

Respectfully submitted,

/s/ Amos D. Pettis  
**AMOS D. PETTIS** (Lead Counsel)  
Texas Bar No. 24027730

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***ATTORNEY FOR DEFENDANTS  
PHARMACISTS MUTUAL INSURANCE  
COMPANY and ALLEN B. SIMONS***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on November 15, 2017.

/s/ Amos D. Pettis  
**AMOS D. PETTIS**